



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Senate Bill 452

**Senate Substitute Amendment 2
and Senate Amendment 1 to
Senate Substitute Amendment 2**

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Current Law

Current law directs the Department of Natural Resources (DNR) to establish groundwater protection standards for substances which are detected in or have a reasonable probability of entering groundwater in the state. The DNR must establish two types of numerical standards, “enforcement standards” and “preventive action limits” or “PALs.” A PAL is essentially a warning level that is set at a specified fraction of the concentration established for a substance’s enforcement standard.

Once the DNR establishes an enforcement standard or PAL for a substance, each state agency that regulates an activity related to the substance must, in general, review its rules and, as necessary, amend or create rules, to define design and management practice criteria for activities affecting groundwater which minimize the level of substances in groundwater and maintain compliance by these activities with PALs unless the compliance is not technically and economically feasible. These criteria may not permit an enforcement standard to be attained or exceeded at the “point of standards application.”

A “point of standards application” is the specific location or distance from a facility, activity or practice at which the concentration of a substance in groundwater is measured for purposes of determining whether an enforcement standard or a PAL has been attained or exceeded. For a monitored facility, such as an aquifer storage and recovery well, current law provides that the point of standards application for determining compliance with a PAL is any location where groundwater is monitored to determine this compliance. The point of standards application for determining compliance with an enforcement standard or determining whether design and management criteria successfully maintain compliance with PALs is any of the following:

1. Any point of present groundwater use.
2. Any point beyond the property boundaries of the premises where the activity is undertaken.

3. Any point beyond the design management zone (a three-dimensional zone or distance from the activity specified by the regulating agency) but within the property boundaries of the premises where the activity is undertaken. (The DNR has established design management zones only for certain types of waste facilities.)

Current law directs regulatory agencies to establish by rule the range of responses which the agency may take, or which it may require persons controlling an activity which is a source of a substance to take, if either an enforcement standard or a PAL is attained or exceeded at the point of standards application.

Current law also directs a regulatory agency to take specified actions on a case-by-case basis if the concentration of a substance in groundwater attains or exceeds an enforcement standard or a PAL at a point of standards application for a specific site.

Senate Bill 452

Senate Bill 452 exempts from the general framework for regulating responses to groundwater contamination the discharge into groundwater of a “regulated substance” by an “aquifer storage and recovery system.” The bill defines a “regulated substance” to be any substance for which an enforcement standard has been established. An “aquifer storage and recovery system” is all of the “aquifer storage and recovery wells” and related appurtenances that are part of a municipal water system. An “aquifer storage and recovery well” is a well through which “treated drinking water” is placed underground for the purpose of storing and later recovering the water through the same well for use as drinking water. “Treated drinking water” is potable water that has been treated so that it complies with the primary drinking water standards established by the DNR.

In particular, the bill establishes that, notwithstanding the requirements in current law described above, the DNR:

1. Is not required to promulgate or amend its rules that define design or management criteria for aquifer storage and recovery systems to minimize the amount of a regulated substance in groundwater or to maintain compliance with a PAL for a regulated substance.
2. Must define design or management criteria by rule for aquifer storage and recovery systems to maintain their compliance with the DNR’s drinking water standards.
3. Is authorized to define design or management criteria by rule for aquifer storage and recovery systems that permit the enforcement standard for a regulated substance to be attained or exceeded at the point of standards application.
4. Is not required to set forth responses that the DNR may take or require to be taken, when the enforcement standard or PAL for a regulated substance is attained or exceeded at the point of standards application if the source of the regulated substance is an aquifer storage and recovery system.
5. Is not required to take any responses for a specific site at which the enforcement standard or PAL for a regulated substance is attained or exceeded at the point of standards application if the source of the regulated substance is an aquifer storage and recovery system.

Senate Substitute Amendment 2, as Amended by Senate Amendment 1

Senate Substitute Amendment 2, as amended, limits the applicability of the provisions in the bill by applying the provisions to “specified substances” released by an aquifer storage and recovery system rather than to releases of a “regulated substance.” The substitute amendment defines a “specified substance” to be one of the following: chloroform, bromodichloromethane, dibromochloromethane, or bromoform.

The amended substitute amendment establishes that, notwithstanding the requirements in current law described above, the DNR:

1. Is not required to promulgate or amend its rules that define design or management criteria for aquifer storage and recovery systems to minimize the amount of a specified substance in groundwater or to maintain compliance with a PAL for a regulated substance.
2. Must define design or management criteria by rule for aquifer storage and recovery systems to maintain their compliance with the DNR’s drinking water standards.

The amended substitute amendment also specifies that, notwithstanding current law, the point of standards application for an aquifer storage and recovery well with respect to a specific substance is 1,200 feet from the aquifer storage and recovery well and at any other well that is within 1,200 feet from the aquifer storage and recovery well.

Finally, the amended substitute amendment directs a municipal water system operator that uses an aquifer storage and recovery system to submit a report to the DNR within five years after beginning to operate the system. The report must describe the operator’s experience in using the system.

On March 12, 2002, the Senate adopted Senate Amendment 1 to Senate Substitute Amendment 2, adopted Senate Substitute Amendment 2, as amended, and passed Senate Bill 452, as amended. The Senate took all of these actions on a voice vote.

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